

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

MARK SANTAS, Register No. 1028501,)	
)	
Plaintiff,)	
)	
v.)	No. 06-4025-CV-C-SOW
)	
ARTHUR WOOD, et al.,)	
)	
Defendants.)	

ORDER

On November 16, 2006, the United States Magistrate Judge recommended that defendants' motion to dismiss for failure to state a claim be granted. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on November 29, 2006. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

On January 22, 2007, plaintiff filed a motion requesting leave to file an amended complaint challenging Missouri Department of Corrections' policy regarding length of stay in administrative segregation. Plaintiff's challenge to his administrative segregation was addressed in the November 16, 2006 Report and Recommendation hereby adopted.

Additionally, in light of this court's order granting defendants' motion to dismiss and plaintiff's transfer to Eastern Reception and Diagnostic Center, plaintiff's previous motion seeking preliminary injunctive relief is moot.

Plaintiff filed a motion to clarify the court's order of July 25, 2006, directing monthly payments from plaintiff's inmate account. The order specifically provides that plaintiff is to pay the filing fee in monthly installments, and that the Missouri Department of Corrections forward funds from plaintiff's account in accordance with the provisions of 28 U.S.C. § 1915 until the \$250.00 filing fee is paid in full. Section 1915 provides very specific guidance as to the

application of monthly payments from plaintiff's inmate account, and further clarification is unnecessary.

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that plaintiff's motion to amend is denied [38]. It is further

ORDERED that plaintiff's motion for preliminary injunctive relief, and for clarification are moot [32, 34]. It is further

ORDERED that the Magistrate Judge's November 16, 2006 Report and Recommendation is adopted [33]. It is further

ORDERED that defendants' motion to dismiss is granted and plaintiff's claims are dismissed, for failure to state a claim for which relief can be granted [26].

/s/Scott O. Wright
SCOTT O. WRIGHT
Senior United States District Judge

Dated: March 13, 2007